

### **Remarks**

In view of the above amendments and the following remarks, reconsideration and further examination are requested.

The specification has been amended. No new matter has been added by these amendments.

Claims 12-14 and 24 have been amended to make a number of editorial revisions. These revisions have been made to place the claims in better U.S. form. None of these amendments have been made to narrow the scope of protection of the claims, nor to address issues related to patentability and therefore, these amendments should not be construed as limiting the scope of equivalents of the claimed features offered by the Doctrine of Equivalents.

Claims 1-24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Downs (US 6,226,618) in view of Sako (US 6,738,752).

Claims 1 and 15 have been amended so as to further distinguish the present invention from the references relied upon in the rejection. The rejection is traversed for the following reasons.

Claim 1 is patentable over the combination of Downs and Sako, since claim 1 recites a recording medium having digital data stored thereon, the digital data including, in part, reproduction control information used to determine a plurality of content data to be reproduced, wherein the reproduction control information includes reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and reproduction frequency parameters each of which determines a frequency of play of the plurality of content data while the data recording and reproducing device performs special reproduction, wherein the reproduction frequency parameters include a reproduction frequency direct factor, which is directly used as a frequency of play at special reproduction, and a reproduction frequency indirect factor which is used to indirectly determine a frequency of play at special reproduction, and wherein the reproduction frequency indirect factor is able to be dynamically and automatically updated at a time of reproduction or recording of said content data. The combination of Downs and Sako fails to disclose or suggest the present invention as recited in claim 1.

Downs discloses an electronic control delivery system for electronic commerce that can be used to securely transmit data, including music, video games, movies and print media, to an end user

via a network. The main components of the system are the end users 109 who are consumers interested in purchasing data, content providers 101 (for example, a music company or publishing company) who own the rights to the data, electronic stores 103 who are authorized to sell and distribute the data of the content providers 101 to the users 109, and clearinghouses 105 who provide licensing authorization and perform record keeping of all of the transactions of the data from the content providers 101 to the users 109 via the electronic stores 103.

In order to transfer the data securely to the users 109, the data is encrypted so as to only be decryptable with a data decrypting key, the data decrypting key being encrypted by a first public key. The encrypted data is accessible by one of the users 109 who has purchased the data from one of the electronic stores 103 and the encrypted data decrypting key is transferred to one of the clearinghouses 105 which has a first private key which corresponds to the first public key. The clearinghouse 105 decrypts the encrypted data decrypting key and then reencrypts the data decrypting key using a second public key and transfers the newly encrypted data decrypting key to the user 109 who has a second private key corresponding to the second public key. Therefore, the user 109 can decrypt the data decrypting key and use the data decrypting key to further decrypt the purchased data. (See column 8, line 55 - column 11, line 55, column 3, lines 4-56, column 1, lines 50-56, and Figure 5).

Based on the above description, it is apparent that the system of Downs is concerned with securely providing data to a user by using public/private key encryption. Further, the data is described as any of print media, films, games, and music. (See column 1, lines 50-56). However, Downs fails to disclose or suggest any other characteristics of the data. As a result, Downs necessarily fails to disclose or suggest digital data including (1) reproduction control information used to determine a plurality of content data to be reproduced, the reproduction control information including reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and (2) reproduction frequency parameters each of which determines a frequency of play of the plurality of content data while the data recording and reproducing device performs special reproduction, and the reproduction frequency parameters including a reproduction frequency direct factor, which is directly used as a frequency of play at special reproduction, and a reproduction frequency indirect factor which is used to indirectly determine a frequency of play at special reproduction, wherein the

reproduction frequency indirect factor is able to be dynamically and automatically updated at a time of reproduction or recording of said content data. Since Downs fails to disclose or suggest the above-mentioned features of claim 1, it is necessary for Sako to address the deficiencies of Downs in order for the combination to render claim 1 obvious as suggested in the rejection.

Sako discloses an information receiving and distributing system 100 including a contents provider 35, a contents distributing service dealer 4 using an information distributing apparatus 1, and a user 33 using an information receiving apparatus 200. The system 100 is used for allowing the contents provider 35 to distribute its music to the user 33 who wishes to listen to the music with the service dealer 4 acting as an intermediary. The system 100 is disclosed as using at least one of a network 30, radio communications, and satellite communications to disseminate the music. (See column 3, line 5 - column 4, line 41).

Based on the above discussion, it is apparent that Sako also fails to disclose or suggest digital data including (1) reproduction control information used to determine a plurality of content data to be reproduced, the reproduction control information including reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and (2) reproduction frequency parameters each of which determines a frequency of play of the plurality of content data while the data recording and reproducing device performs special reproduction, and the reproduction frequency parameters including a reproduction frequency direct factor, which is directly used as a frequency of play at special reproduction, and a reproduction frequency indirect factor which is used to indirectly determine a frequency of play at special reproduction, wherein the reproduction frequency indirect factor is able to be dynamically and automatically updated at a time of reproduction or recording of said content data.

Since both Downs and Sako are related to content distribution over a network and provide no detail into content related to the present invention as recited in claim 1, as discussed above, it is unclear how the Examiner is relying on these references as disclosing the specific features recited in claim 1. As set forth in M.P.E.P. § 2111, claims must be giving their **broadest reasonable interpretation consistent with the specification.** In an attempt to more clearly describe the invention recited in claim 1, and highlight its differences from the references, the phrase “a

reproduction frequency” has been changed to “a frequency of play” in an attempt to clarify that the phrase is related to how many times or how often the content data are reproduced (played). The meaning of this language can be clearly discerned from the specification, for example, at page 15, line 5 - page 16, line 15. Further, it is clear that neither Downs, nor Sako, provides any disclosure of these features of claim 1. Sako does disclose a quality divisions table 31 that contains data on a rank, a quality, and a rate of the contents to be distributed that are used to determine how much the user 33 should pay for the contents. Further, the “quality” for voice information is defined in the table 31 by a compression rate, a highest reproduction frequency, and a number of bits per sample bit. (See column 5, lines 14-39). However, it is clear from the context in which the term “reproduction frequency” is used in this portion of Sako that it is related to sampling frequency in terms of “hertz” and not related to how many times or how often the voice information is reproduced, since it is discussed in connection with the “quality” of the voice information. Therefore, this section of Sako is also in no way related to the present invention as recited in claim 1.

As a result, the combination of Downs and Sako fails to disclose or suggest the present invention as recited in claim 1.

As for claim 15, it is patentable over the combination of Downs and Sako for the same reasons as set forth above in support of claim 1. That is, claim 15, like above claim 1, recites, in part, reproduction control information used to determine a plurality of content data to be reproduced, wherein the reproduction control information includes reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and reproduction frequency parameters each of which determines a frequency of play of the plurality of content data while the data recording and reproducing device performs special reproduction, wherein the reproduction frequency parameters include a reproduction frequency direct factor, which is directly used as a frequency of play at special reproduction, and a reproduction frequency indirect factor which is used to indirectly determine a frequency of play at special reproduction, and wherein the reproduction frequency indirect factor is able to be dynamically and automatically updated at a time of reproduction or recording of said content data, which features are not disclosed or suggested in the combination of Downs and Sako.

Claim 13 is patentable over the combination of Downs and Sako, since claim 13 recites a reproduction control information collection system having, in part, a user system operable to transmit reproduction control information indicative of a preference of content data of a user over a network; an information provider system operable to receive the reproduction control information which came from the user system, and transmit, over the network, the reproduction control information of the user together with an ID uniquely identifying the user to the content merchandiser system; in response to the reproduction control information and the ID provided by the information provider system, the content merchandiser system operable to issue a password uniquely corresponding to the ID, and transmit the password to the information provider system over the network; the information provider system is operable to transmit the password and the ID provided by the content merchandiser system to the user system over the network; user system operable to present the ID and the password provided by the information provider system to the content merchandiser system over the network, and ask for the bonus. The combination of Downs and Sako fails to disclose or suggest a user system, an information provider system and a content merchandiser system as recited in claim 13.

As discussed above with regard to claim 1, Downs discloses an electronic control delivery system for electronic commerce that can be used to securely transmit data from a content provider 101 to an end user 109 via a network. In order to transfer the data securely to the users 109, the data is encrypted so as to only be decryptable with a data decrypting key, the data decrypting key being encrypted by a first public key. The encrypted data is accessible by one of the users 109 who has purchased the data from one of the electronic stores 103 and the encrypted data decrypting key is transferred to one of the clearinghouses 105 which has a first private key which corresponds to the first public key. The clearinghouse 105 decrypts the encrypted data decrypting key and then reencrypts the data decrypting key using a second public key and transfers the newly encrypted data decrypting key to the user 109 who has a second private key corresponding to the second public key. Therefore, the user 109 can decrypt the data decrypting key and use the data decrypting key to further decrypt the purchased data. (See column 8, line 55 - column 11, line 55, column 3, lines 4-56, column 1, lines 50-56, and Figure 5).

Based on the above discussion, it is apparent that Downs is concerned with securely transmitting data by using public and private key encryption and fails to disclose or suggest that the

user 109 transmits reproduction control information indicative of a preference of content data of a user over a network. Downs also fails to disclose or suggest that the content provider 101 receives the reproduction control information which came from the user 109, and transmits, over the network, the reproduction control information together with an ID uniquely identifying the user 109 to the electronic store 103. Further, Downs fails to disclose or suggest that the electronic store 103 issues a password uniquely corresponding to the ID, and transmits the password to the content provider 101 over the network and that the content provider transmits the password and ID to user 109, whereby the user 109 can present the password and ID to the electronic stores 103 to receive a bonus. Since Downs fails to disclose or suggest any of these features of claim 13, it is necessary for Sako to address the deficiencies of Downs in order for the combination to render claim 13 obvious as suggested in the rejection.

Also as discussed above, Sako discloses an information receiving and distributing system 100 including a contents provider 35, a contents distributing service dealer 4 using an information distributing apparatus 1 and a user 33 using an information receiving apparatus 200. The system 100 is used for allowing the contents provider 35 to distribute its music to the user 33 who wishes to listen to the music with the service dealer 4 acting as an intermediary. The system 100 is disclosed as using at least one of a network 30, radio communications, and satellite communications to disseminate the music. (See column 3, line 5 - column 4, line 41). However, it is apparent that Sako also fails to disclose or suggest any of the above-mentioned features of claim 13.

Specifically, Sako fails to disclose or suggest an information provider system that transmits reproduction control information of the user 33 together with an ID uniquely identifying the user 33 to the information distributing apparatus 1. Sako also fails to disclose or suggest an information provider system that is operable to transmit a password and an ID provided by the information distributing apparatus 1 to the information receiving apparatus 200 of the user 33. Further, Sako fails to disclose or suggest that the information receiving apparatus 200 is operable to present an ID and password to a content merchandiser system and to ask for a bonus. Therefore, it is apparent that Sako fails to address any of the defects of Downs. Instead, Sako discloses a content distribution system that varies the cost of obtaining content depending on the quality of the content. As a result,

the combination of Downs and Sako fails to disclose or suggest the present invention as recited in claim 13.


As for claim 24, it is patentable over the combination of Downs and Sako for similar reasons as set forth above in support of claim 13. That is, claim 24, like above claim 13 recites, in part, transmitting, using a user system, reproduction control information indicative of a preference of content data of a user over a network; receiving, using an information provider system, the reproduction control information which came from the user system, and transmitting, over the network, the reproduction control information together with an ID uniquely identifying the user to a content merchandiser system; in response to the reproduction control information and the ID provided by the information provider system, issuing, using the content merchandiser system, a password uniquely corresponding to the ID, and transmitting the password to the information provider system over the network; transmitting, using the information provider system, the password and the ID provided by the content merchandiser system to the user system over the network; presenting, using the user system, the ID and the password provided by the information provider system to the content merchandiser system over the network, and asking for the bonus, which features are not disclosed or suggested in the combination of Downs and Sako.

Because of the above-mentioned distinctions, it is believed clear that claims 1-24 are not obvious in view of the combination of Downs and Sako. Furthermore, it is submitted that the distinctions are such that a person having ordinary skill in the art at the time of invention would not have been motivated to make any combination of the references of record in such a manner as to result in, or otherwise render obvious, the present invention as recited in claims 1-24. Therefore, it is submitted that claims 1-24 are clearly allowable over the prior art of record.

In view of the above remarks, it is submitted that the present application is now in condition for allowance. The Examiner is invited to contact the undersigned by telephone if it is felt that there are issues remaining which must be resolved before allowance of the application.

Respectfully submitted,

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